



**THE CITY OF NEW YORK  
LAW DEPARTMENT**

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September 29, 2017

**BY ECF**

Honorable Brian M. Cogan  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Sharon Lopez v. City of New York, et al.,  
17-CV-2848 (BMC)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department assigned to the defense of the above-referenced matter and attorney for defendants City of New York, Police Officer Omar Rackoff, and Sergeant Henry Etienne. Defendants write to respectfully advise the Court in advance that the undersigned will unlikely be able to answer or otherwise respond to the amended complaint on behalf of the newly named defendants Ernst, Hall, Klein, Gorman, and Pontecorvo by their respective answer due dates of October 12, 2017 and October 18, 2017. Defendants have conferred with plaintiff's counsel, Edward Zaloba, Esq., and he has agreed not to move for a default judgment against these defendants prior to October 20, 2017.

The undersigned had just become aware via ecf bounce yesterday that summons were returned executed for defendants Ernst, Hall, Klein, Gorman and Pontecorvo and that the answers for the majority of them are due on October 12th. (See Docket Entry No. 22) The undersigned, however, will be out of the office and unavailable on October 5th, 6th, 12th and 13th for the Jewish Holiday of Sukkot. In addition, this office will be closed on October 9th for Columbus Day. This Office has not discussed with any of the newly named defendants the manner of service and we make no representation herein as to the adequacy of service upon any of the newly named defendants. If service has been effectuated, pursuant to Section 50-k of the New York General Municipal Law, this Office must determine, based on a review of the case, whether we may represent defendants Ernst, Hall, Klein, Gorman, and Pontecorvo. Defendants Ernst, Hall, Klein, Gorman, and Pontecorvo must then decide whether they wish to be

represented by this Office. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)). If so, we must obtain defendants Ernst, Hall, Klein, Gorman, and Pontecorvo's written authorizations. Only after this procedure has been followed can we determine how to proceed in this case.

This Office acknowledges that Your Honor does not grant *sua sponte* extensions to non-appearing defendants and is thus filing this letter merely to keep the Court apprised of ongoing developments in this matter.

Respectfully submitted,

/s/

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cc: BY ECF  
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